

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

DAVID LIPNICKI, ET AL.,

Plaintiffs,

v.

MERITAGE HOMES  
CORPORATION, ET AL.,

Defendants.

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Civil Action No. 3:10-cv-00605

**ORDER DISMISSING CLAIMS OF PLAINTIFFS  
JOHN ARMAO AND KIP EDWARDS WITH PREJUDICE**

Prior to the trial of this matter, Plaintiffs John Armao and Kip Edwards were chosen to participate as “bellwether” trial plaintiffs. John Armao declined to participate in the trial proceedings including providing his Court ordered deposition testimony prior to trial. The Court has determined that John Armao’s FLSA claims be **dismissed with prejudice.**

Kip Edwards also failed to participate in the trial proceedings, and through his counsel, notified the Court of his desire to withdraw from the case once trial proceedings had already commenced. The Court has determined that Plaintiff Kip Edwards’s FLSA claims be **dismissed with prejudice.**

It is therefore ORDERED that the claims of Plaintiffs John Armao and Kip Edwards against Defendants in this matter are hereby dismissed without prejudice with

each party to bear their own costs. Plaintiffs John Armao and Kip Edwards are not entitled to share in any settlement proceeds in this matter.

SIGNED this 22<sup>nd</sup> day of January, 2015.

  
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HON. GREGG COSTA  
UNITED STATES CIRCUIT JUDGE\*

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\*Sitting by designation